

DEPARTMENT OF STATE REVENUE

04-20191550R.MOD

Memorandum of Decision: 04-20191550R
Sales and Use Tax
For The Tax Year 2016

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Memorandum of Decision.

HOLDING

Corporation successfully claimed its refund after providing verifying documentation explaining why it used the incorrect Taxpayer Identification Number when attempting to claim a refund in Indiana for 2016.

ISSUE

I. Gross Retail Tax - Manufacturing exemption.

Authority: IC § 6-2.5-5-3; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the denial of its refund claim.

STATEMENT OF FACTS

Taxpayer is an Indiana corporation in the business of manufacturing chemicals. The Indiana Department of Revenue ("Department") denied Taxpayer's 2016 claim for refund because Taxpayer used an incorrect Taxpayer Identification Number ("TID") when claiming the refund. Taxpayer protested the denial and the Department held an administrative hearing. This Memorandum of Decision results. Additional facts will be provided as necessary.

I. Gross Retail Tax - Manufacturing exemption.

DISCUSSION

Taxpayer timely filed claims for refund in Indiana for tax years 2016, 2017, and 2018 for exempt purchases such as replacement parts for manufacturing and equipment, safety supplies, packaging supplies, and supplies used in manufacturing. The Department granted the refund claims for the 2017 and 2018 tax years. However, the Department denied Taxpayer's 2016 refund claim because it listed a different Taxpayer Identification Number than listed on the claims for 2017 and 2018. In 2016 Taxpayer and two other companies merged, hence the different TIDs. Therefore, the 2016 TID differed from both 2017 and 2018 TIDs. After the merger, the daily operations remained the same.

"[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision shall be entitled to deference.

IC § 8.1-9-1(a) provides:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (j) and (k), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

- (1) The due date of the return.
- (2) The date of payment.

IC § 6-2.5-5-3 provides in relevant part:

- (b) Except as provided in subsection (c), transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct

use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including material handling equipment purchased for the purpose of transporting materials into such activities from an onsite location.

(c) The exemption provided in subsection (b) does not apply to transactions involving distribution equipment or transmission equipment acquired by a public utility engaged in generating electricity.

Based on IC § 6-2.5-5-3, Taxpayer's equipment qualified for an exemption in 2016, because it was acquired for the direct use in the direct production of Taxpayer's product. Moreover, the Department granted Taxpayer's refund claim for 2017 and 2018 with the same facts. However, the issue surrounds the TIDs on the refund. Taxpayer resolved the Department's concerns by explaining about the merger and providing the Articles of Merger that occurred in 2016. The merger changed the TID and the tax preparer mistakenly used the incorrect one. In accordance with IC § 6-2.5-5-3 and because the Taxpayer explained why the TID changed, Taxpayer is entitled to an exemption for 2016 Indiana taxes.

FINDING

Taxpayer is sustained.

February 20, 2020

Posted: 04/29/2020 by Legislative Services Agency

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